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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

KM

Office Action Summary

Application No.

09/603,514

Applicant(s)

MILLS ET AL.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>24 May 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-64 are pending. Claims 1, 19, and 27 have been amended in this communication filed 05/24/04 entered as RCE and Amendment.

The IDS filed 05/24/04 has been considered. Reference **W0 93/15467 (08-05-1993) Foreign Exchange Transaction Services, Inc.** is missing from the file and could not be considered.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/14/04 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 49, 61, 63, and 64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 in the preamble references "an anonymous trading system". The Examiner does not find "an anonymous trading system " mentioned in the body of the claim.

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Claim 49, line 2 reads "... convey orders from traders coupled thereto". It is unclear and vague what is coupled thereto. Do Applicants' mean "the broker terminal is coupled to effectively receive and convey orders from traders"?

Claim 61 appears to be missing steps to be an independent claim. Where is the "A system of trading at least one tradable item, comprising:"?

Claim 63 in the preamble reads "A trading system for trading fungibles between parties". Where are the "fungibles being traded between parties" in the body of the claim?

Claim 64 reads "a trading system for trading instruments between parties". Where are the "trading instruments" in the body of the claim?

Claim Objections

5. Claims 7 and 62 are objected to because of the following informalities: claim 7, line 3 reads "..., and each counterparty the amount of credit utilized,". This claim would be better read "..., and each counterparty the amount of credit utilized,". Claim 62, line 5 reads "... includes executable software for performing the acts of:". This claim would be better read "... includes executable software for performing the steps of:".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. Claims 37-47 are rejected under 35 U.S.C. 101 as non-statutory. The method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C.

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101. In contrast, a method claim that includes in the body of the claim at least one structural/functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) –used only for content and reasoning since not precedential]. Suggestions: Claim 37 “A computer-implemented method for trading ..., the method comprising the steps of: performing on the computer a first trade between a first trader and a second trader;”.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-7, 19, 27, 48, 59, 61, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by (US 5,375,055) Togher et al, hereafter Togher.

Claim 1. Togher teaches, An anonymous trading system for trading instruments between trading parties; comprising: a communications network for transmitting electronic messages (col. 2, lines 38-47 , col. 6, lines 12-18, and col. 12, lines 52-54); a plurality of order input devices connected to the communications network each for generating electronic orders including bid and/or offer orders and for communicating to a trader order information received from others of said plurality of order input devices

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over the network (col. 6, lines 23-66 and col. 7, line 1); at least one matching engine connected to the network for matching bid and offer orders input into the system from the order input devices and for executing deals where prices are matched (col. 7, lines 23-34 and fig. 1 and fig. 3); a market distributor connected to the network for distributing order price messages to the trader terminals, the market distributor being responsive to the order messages and the matching engine (col. 5, lines 10-39); a credit limit store for storing credit available for trades between each trader or group of traders and possible counterparty traders or groups of traders (col. 6, lines 19-35); and a credit adjuster for adjusting the credit available for future trades between a given party and a counterparty following a trade with that counterparty, the credit adjustment means calculating the change in exposure to the party resulting from the trade and adjusting the credit available in accordance with the change in exposure that results from a netting of trades between a given party and each counterparty (col. 1, lines 23-54, col. 2, lines 21-37 and lines 48-68, and col. 12, lines 44-51).

Claims 2, 28, and 29. Togher teaches, An anonymous trading system according to claim 1, wherein the order input devices for a given trading floor are connected to a trading agent node connected to the communications network, wherein the credit limit store and the credit adjuster for a given trading floor are resident at the trading agent node to which the trading floor is attached (col. 2, lines 48-68 and fig. 1).

Claim 3. Togher teaches, An anonymous trading system according to claim 1, wherein the order input devices for a given trading floor are connected to a trading agent node connected to the communications network, and the credit limit store and the

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credit adjuster for a given trading floor are resident at a further trading agent node (col. 5, lines 40-60, col. 6, lines 5-11, and fig. 1).

Claim 4. Togher teaches, An anonymous trading system according to claim 3, wherein the trading agent node for a given trading floor comprises a messenger for sending to the separate trading node on which the credit limit store and credit adjuster for that trading floor resides, a credit enquiry message (DealCreditMaker, DealCreditTaker) when a deal with a given counterparty is proposed (col. 11, lines 22-68 and col. 13, lines 11-17 and lines 60-68).

Claim 5. Togher teaches, An anonymous trading system according to claim 1, wherein the credit limit store is at least partially resident at the matching engine (col. 6, lines 19-35).

Claim 6. Togher teaches, An anonymous trading system according to claim 5, wherein the matching engine includes a subset of the credit limits available (col. 5, lines 4-60 and col. 6, lines 48-54).

Claim 7. Togher teaches, An anonymous trading system according to claim 1, wherein the credit adjuster and the credit limit store together store the credit limit between the trading floor and each possible counterparty, and for each counterparty the amount of credit utilised, the amount of each deal, whether each deal is a buy or sell and the amount of credit available for further trades (col. 6, lines 12-35 and lines 67 – col. 7, line 19).

Claim 19. Togher teaches, An electronic broking system for trading financial instruments between trading parties; comprising: a communications network for

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transmitting electronic messages and including a plurality of broking nodes and a plurality of trading agent nodes, each trading agent being connected to a broking node; a plurality of order input devices, the trading terminals of a trading floor being connected to a trading agent node; each order input device generating electronic order messages including bid and/or offer orders and for communicating order price information received from others of said plurality of order input devices from the trading agent node; wherein each broking node comprises a matching engine for matching bid and offer orders input into the system from the order input devices, for executing deals where prices are matched and for distributing to the order input devices order price messages in response to the order price messages and the matching engine (col. 2, line 14 –col. 4, line 48); the system further comprising a credit limit store for storing credit limits available for trades between each trader or group of traders and possible counterparty traders or groups of traders; and a credit adjuster for adjusting the credit available between a given party and a counterparty following a trade with that counterparty, the credit adjuster determining the change in exposure to the party resulting from the trade and adjusting the credit available in accordance with the change in exposure that results from a netting of trades between a given trader and each counterparty (col. 7, lines 53-60 and fig. 1).

This independent claim is rejected for the similar rationale as given above for claim 1.

Claim 27, this independent claim is rejected for the similar rationale as given above for claims 1 and 19.

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Claim 48, this independent claim is rejected for the similar rationale as given above for claims 1, 19, and 27.

Claim 59. this independent claim is rejected for the similar rationale as given above for claims 1, 19, 27, and 48.

Claim 61. this independent claim is rejected for the similar rationale as given above for independent claims 48 and 59.

Claim 62. this independent claim is rejected for the similar rationale as given above for claims 48, 59, and 61.

9. Claims 8-26, 30-36, 49-58, 60, 63, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,375,055) Togher et al, hereafter Togher in view of (US 5,802,499) Sampson et al, hereafter Sampson.

Claim 8. Togher teaches, An anonymous trading system according to claim 1, wherein the matching engine and the market distributor together form a single broking node of the communications network, the network comprising a plurality of broking nodes (col. 2, lines 14- col. 4, line 48).

Claim 9. Togher failed to teach, An anonymous trading system according to claim 8, wherein each broking node stores a subset of the credit limit information for each trading floor connected to the system. Sampson teaches, An anonymous trading system according to claim 8, wherein each broking node stores a subset of the credit limit information for each trading floor connected to the system (col. 2, line 37-.col. 3, line 67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have each broking node store a subset of the credit limit

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information for each trading floor connected to the system and to modify in Togher in view of Togher's teachings of "distributed nodes", "access nodes", and a trading floor and because such a modification would allow Togher to have a computer-based credit support system for trading securities as credit support with less legal and operational risk.

Claim 10. Togher failed to teach, An anonymous trading system according to claim 9, wherein the system trades foreign exchange spot (F/X spot} and the subset of credit limit information stored by each broking node comprises an identification of whether or not credit exists between each party and each possible counterparty. Sampson teaches, wherein the system trades foreign exchange spot (F/X spot} and the subset of credit limit information stored by each broking node comprises an identification of whether or not credit exists between each party and each possible counterparty (col. 28, lines 40-62, col. 33, lines 25-67, and col. 34, lines 1-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the system trade foreign exchange spot (F/X spot} and the subset of credit limit information stored by each broking node comprises an identification of whether or not credit exists between each party and each possible counterparty and to modify in Togher because such a modification would allow Togher to have a structure entitled FX rate and a currency code (cross-exchange rate from a particular currency to US dollars) and credit support (limit).

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Claim 11. Togher teaches, An anonymous trading system according to claim 20, wherein the subset of credit information is a yes/no matrix (col. 13, lines 18-68 and col. 14, lines 1-9).

Claims 12, 20 and 30. Togher teaches, An anonymous trading system according to claim 1, wherein the instrument traded includes two or more currency values and the credit adjuster includes a calculator for calculating the currency exposure in each currency (col. 6, line 67- col. 7, lines 1-19 and lines 53-68 and col. 8, lines 1-18).

Claims 13, 21, and 31. Togher teaches, An anonymous trading system according to claim 12, wherein the credit adjuster includes a converter for converting the calculated currency exposures into a credit limit base currency equivalent (col. 6, lines 55-66, col. 7, lines 20-52, and col. 8, lines 19-64).

Claims 14, 17, 22, 32, and 35. Togher teaches, An anonymous trading system according to claim 12, wherein the credit adjuster includes a calculator for calculating exposure at a settlement date (col. 8, line 65-col. 11, line 51).

Claims 15, 18, 23, 26, 33, 36. Togher teaches, An anonymous trading system according to claim 12, wherein the credit adjuster includes a calculator for calculating exposure within a time bucket (col. 12, lines 31-51).

Claims 16, 24, and 34. Togher teaches, An anonymous trading system according to claim 12, wherein the credit adjuster calculates the currency exposure in each currency for a plurality of financial instruments (col. 4, lines 32-48, col. 6, line 36 – col. 8, line 18).

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Claim 49. Togher teaches, The trading system as recited in claim 48, wherein the broker terminal is further effective to receive and convey orders from traders coupled thereto (col. 2, line 14- col. 4, line 48 and fig. 1).

Claim 50. Togher teaches, The trading system as recited in claim 48, wherein: the broker terminal is effective to produce a market view for the traders; and when the credit limit is below a threshold so that offers from the second trader will not be hit by the first trader, the broker terminal shows bids of the second trader in the market view for the first trader (col. 5, lines 4-60 and col. 6, lines 1-54).

Claim 51. Togher teaches, The trading system as recited in claim 48, wherein: the second trader is comprised of a group of trading entities; and the broker terminal is effective to adjust the credit limit for the group (col. 6, line 12 –col. 12, line 50).

Claims 52. Togher teaches, The trading system as recited in claim 48, wherein the broker terminal is effective to adjust the credit limit based on trades for a single type of tradable item (col. 12, line 52- col. 13, line 41).

Claims 53. this dependent claim is rejected for the similar rationale as given above for claim 32.

Claim 54. this dependent claim is rejected for the similar rationale as given above for claim 33.

Claim 55. Togher teaches, The trading system as recited in claim 48, wherein the total exposure is based on trades including at least two distinct currency pairs (col. 7, lines 53-68 and col. 8, lines 1-18).

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Claim 56. Togher teaches, The trading system as recited in claim 48, wherein the total exposure is for a defined time period (col. 6, lines 12-35).

Claim 57. Togher and Sampson failed to teach, The trading system as recited in claim 56, wherein the time period is one day, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the time period to be one day and to modify in Togher in view of Togher's teachings of trading and a time the other ARB's are processing deals and because such a modification would allow Togher to have a best dealable price within a twenty-four hour period.

Claim 58. this dependent claim is rejected for the similar rationale as given above for claim 15.

Claim 60. Togher teaches, The trading system as recited in claim 59, wherein: the second trader defines another credit limit for trades with the first trader; and the system is effective to adjust the another credit limit based on the total exposure of the second trader from the first trader (col. 7, line 44 –col. 8, line 42).

Claim 63. Togher teaches, A trading system for trading fungibles between parties comprising: a matching engine for matching buy/sell orders input into the system by parties with counterparty sell/buy orders input into the system; and a credit store for storing credit limits assigned by parties for trades with counterparties on the system, wherein the credit limits are checked before matched orders are executed as a deal to ensure that there is sufficient credit for the deal; wherein the credit engine comprises a credit adjuster for varying the credit available to a party for further trades by the amount

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of an executed deal, the amount of available credit being varied in an opposite direction for a buy deal to a sell deal. (col. 7, lines 1-52).

This independent claim is rejected for the similar rationale as given above for claims 8 and 9.

Claim 64. A trading system for trading instruments between parties comprising: a credit store for storing credit limits for counterparties trading on the system, the credit limits being indicative of the credit available to a party for trades with other parties on the system; a matching engine for matching buy and sell orders input into the system by parties for execution of trades; wherein prior to execution of a trade a credit check is made to ensure that at least one of the matched parties has sufficient available credit to execute the trade; and a credit manager for adjusting the amount of credit available to the at least one party for trades by the amount of an executed trade, the amount of remaining credit being adjusted following a buy trade in the opposite direction to the adjustment following a sell trade (col. 8, line 19 –col. 13, line 59).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure.

Tozzoli et al (US 6,151,588) disclosed a trading system with a credit limit.


Inquiries

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


E. Colbert
September 4, 2004